IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5140 of 2005

Between:

V. Venkata Ramana Reddy, S/o. Narsa Reddy,
R/o. Ward No. 24/1, Old d.No. 1572 and New No. 1651, Brahamanandapuram,
Dargamitta, Nellore.

..... PETITIONER

AND

1 Nellore Municipal Corporation, Nellore, Rep. by its

Commissioner.
2 The Collector and District Magistrate, Nellore District,

Nellore.
3 The Mandal Revenue Officer, Nellore Mandal, Nellore.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the action of the respondents herein in marking the building bearing door Old No. 1572 and New No. 1651, situated in Ward No. 24/1 of Brahmanandapuram, Dargamitta, Nellore for demolition purpose without any notice or opportunity to the Petitioner and without due process of law by initiating Land Acquisition proceedings as illegal, arbitrary and unjust.

Counsel for the Petitioner:MR.M.V.S.SURESH KUMAR

Counsel for the Respondent No.: MR.S.NAGESWARA REDDY

The Court made the following:

O R D E R:

Heard the learned counsel for the petitioner, learned Government Pleader appearing for respondents 2 and 3 and Sri S.Nageswar Reddy, learned standing counsel appearing for the first respondent.

The petitioner seeks a writ of Mandamus directing the respondents not to demolish the building of the petitioner bearing old Door No.1572 and new Door No.1651, situated in Ward No.24/1 of Brahmanandapuram, Dargamitta, Nellore without following due process of law, as arbitrary and illegal.

It is represented by the learned counsel appearing for both parties that the issue involved in this writ petition is squarely covered by a decision of this Court in WP.No.21198 of 1997 and batch, dated 03-02-1998, wherein the Division Bench while considering an identical question, issued guidelines as under:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for eviction /dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of

such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording on opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R& B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

The learned Government Pleader as well as the learned standing counsel appearing for the first respondent do not dispute the above legal position.

Accordingly, the writ petition is disposed of directing the respondents not to demolish the structures in question, without following the guidelines issued by the Division Bench in the above Writ Petition. No costs.

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(G.ROHINI, J)

Dated 15th March, 2005.

mrb

To

1 The Commissioner, Nellore Municipal Corporation, Nellore, 2 The Collector and District Magistrate, Nellore District,

Nellore.
3 The Mandal Revenue Officer, Nellore Mandal, Nellore.

4. Two CCs to GP for Revenue, High Court Buildings,

Hyderabad(OUT).

5. Two CD copies.